

Testimony in Opposition to SB211
Senate Financial Institutions and Technology Committee
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Chair Wilson, Vice Chair Hottinger, Ranking Member Maharath, and members of the Committee, thank you for the opportunity to provide testimony on Senate Bill 211.

My name is Patrick Skilliter. I am the Managing Attorney of the Economic Justice Team at the Legal Aid Society of Columbus where I represent low-income and elderly consumers, homeowners, and other victims of deceptive conduct. I have been practicing law for over 15 years and it is my opinion that the debt relief industry is one of the worst perpetrators of unfair, deceptive, and abusive practices in the Country. If you take away only one thing from what I am about to say, let it be this: through Senate Bill 211 the debt settlement industry is out to line its pockets, not to help consumers. I am here today to ask you to protect the interests of Ohio's residents – rather than out-of-state businesses looking to exploit them.

SB 211 would remove several important consumer protections and make Ohio a virtually unregulated state for this predatory industry. Just over two years ago, the Consumer Financial Protection Bureau settled a lawsuit for \$20 million against the largest debt settlement company in the Country, Freedom Debt Relief. In that action, the CFPB alleged that Freedom engaged in several deceptive practices, including (1) charging unlawful advance fees, (2) failing to inform consumers of their right to recover funds held by the company, (3) failing to settle debts as promised, and (4) misleading consumers about their ability to settle debts.¹

This case is noteworthy for at least two reasons. First, Freedom's CEO is on the Board of the American Fair Credit Council, a vocal public proponent of SB211.² Second, Freedom is the largest debt settlement company in the country – smaller companies that are less-concerned about their reputation are engaging in worse practices, including charging excessive fees while doing no work to benefit the consumers. They often advise consumers to stop paying creditors, causing credit report damage, escalating debt due to default interest rates, debt collection harassment, and the possibility of a lawsuit.

At this moment, LASC has a client who hired a debt settlement company, Golden Law Group. Golden told her that it settled her debts and she paid them \$3,000 from her IRA for those

¹ <https://www.consumerfinance.gov/about-us/newsroom/bureau-settles-lawsuit-against-freedom-debt-relief/>

² DMB Financial, another AFCC accredited member, also settled claims with the CFPB earlier this year (\$5.4MM settlement over unlawful fees and improper disclosures) <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-debt-settlement-company-for-charging-consumers-unlawful-fees/>;

settlements. Months later, she was sued by Citibank. When she called Golden and asked for information about which accounts were settled and where her money went, they refused to give her any information.

Even in situations where the services are not tantamount to theft, debt relief payment plans can often take years to pay off – all the while interest is running, and the company is collecting fees. Because of this industry’s well-known history of misconduct, many large creditors, including JPMorgan Chase, American Express, and Discover Bank have all refused to negotiate with debt settlement companies.³ Other states have banned debt settlement operations, including Arkansas, Hawaii, Kansas, Louisiana, Massachusetts, New Mexico, North Carolina, and Wyoming.⁴

SB 211’s purported protections and limitations on fees are illusory. Ohio’s current Debt Adjuster’s Act⁵ has substantive limitations on the fees that debt settlement companies can charge. SB 211 would eliminate those fee limits for anyone “operating in compliance with federal regulations” like the Federal Trade Commission’s Telemarketing Sales Rule. That Rule, however, merely requires disclosure of fees without any cap or limitation. SB 211 also makes no mention of who determines that the debt settlement company is in compliance with federal laws. Is that determination of compliance left to the company or a regulator? Must that determination occur before the company can charge unlimited fees in Ohio or is that merely a defense that a company can raise in litigation years after it has been charging unlimited fees?

SB 211’s exception also overlooks modern marketing methods. The FTC’s Telemarketing Sales Rule applies to telephone communications and has limited applicability to modern methods of marketing like social media, email, and online chat.⁶ SB211 fails to address the disclosures required in marketing methods other than telephones.

My last criticism of SB 211 is that it eliminates licensing requirements for debt adjusters. The current law requires debt adjusters to be licensed by the Ohio Attorney General and to submit annual account statements. SB 211 only requires them to “register” with the Attorney General, without a licensing requirement.

The cumulative result of these issues with SB 211 is that it would allow a bad industry to charge desperate Ohioans unlimited fees while reducing regulatory oversight. There is a reason that this industry is trying to push this legislation through: recessions are good for their business.⁷

³ https://files.consumerfinance.gov/f/documents/cfpb_freedom-debt-relief_first-amended-complaint_2019-07.pdf, Complaint, at 4-6.

⁴ <https://www.ncsl.org/research/financial-services-and-commerce/credit-counseling-debt-managem983and-settle983.aspx>

⁵ R.C. Chapter 4710.

⁶ <https://www.ftc.gov/tips-advice/business-center/guidance/debt-relief-services-telemarketing-sales-rule-guide-business>

⁷ https://files.consumerfinance.gov/f/documents/cfpb_quarterly-consumer-credit-trends_debt-settlement-credit-counseling_2020-07.pdf

In a time when we are recovering from near-record unemployment during the pandemic, there will be a considerable number of Ohioans trying to get back on their feet financially. They need real help, not the empty promises from this industry. For these reasons, the Legal Aid Society of Columbus respectfully asks you to reject SB 211. I appreciate the opportunity to testify and I look forward to answering any questions you may have.